

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EATON CORPORATION,

Plaintiff,

Case No. 03-74844

vs.

HON. GEORGE CARAM STEEH

ZF MERITOR LLC, ARVINMERITOR,
INC. and ZF FRIEDRICHSHAFEN AG,

Defendants.

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APPOINTMENT AND ORDER OF REFERENCE TO SPECIAL MASTER

This is a complex patent case involving U.S. Patent Nos. 4,899,279, 5,624,350, and 5,664,458. Under Fed. R. Civ. P. 53, the Court may appoint a special master to, *inter alia*, “perform duties consented to by the parties,” Fed. R. Civ. P. 53(a)(1)(A), and to “address pretrial . . . matters that cannot be addressed effectively and timely by an available district judge or magistrate judge of the district.” Fed. R. Civ. P. 53(a)(1)(C). Because of the complexity of the subject matter, and having received no objection to the Court’s Notice of proposed Appointment and Order of Reference to Special Master, IT IS ORDERED that:

1. Claim construction is referred to James F. Davis, Davisjflaw@aol.com, 239-390-2429, as Special Master to decide upon and report and recommend in writing the appropriate construction of the claims at issue.
2. The Special Master shall confer with the parties to arrange a schedule for briefing and other matters, including oral argument.
3. Copies of papers submitted to the Special Master shall also be filed

simultaneously with the Court and served pursuant to applicable federal rules. Forwarding letters or informal communications need not be filed but should be served on the opposite party.

4. The Special Master shall review the submitted material and confer with the parties following that review to determine what further information is needed and to establish a schedule.
5. The Special Master may conduct oral hearings and meetings at a location(s) directed by him after consultation with the parties. A room in the Federal Courthouse in Detroit can be made available if desired.
6. The Special Master will not have the power to impose sanctions against a party under Federal Rule of Civil Procedure 53(c), but may recommend sanctions to the Court.
7. A petition for review by the Court of the recommendations of the Special Master shall be submitted in writing within ten (10) days of receipt of the Special Master's report. Review of the recommendations of the Special Master by the Court shall be governed by 28 U.S.C. § 636(b)(1)(B) and (c).
8. The Special Master may use law clerks or paralegals at his discretion and shall keep detailed records of time and expenses. The Special Master shall render detailed monthly bills for fees and expenses at the rate of \$650.00 per hour, which is the same rate ordinarily charged clients for such services. Such bills shall be paid promptly as follows: fifty percent (50%) by plaintiff and fifty percent (50%) by defendants. The monthly bills

shall be submitted directly to counsel for the parties, who shall take responsibility for prompt payment by their respective clients.

It is so ordered.

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: March 31, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on March 31, 2006, by electronic and/or ordinary mail.

S/Josephine Chaffee
Secretary/Deputy Clerk